

Message

From: Rhines, Dale [rhines.dale@epa.gov]
Sent: 10/30/2019 12:21:45 PM
To: David A. Ludder [davidaludder@enviro-lawyer.com]
CC: Dorka, Lilian [Dorka.Lilian@epa.gov]; Rhodes, Julia [Rhodes.Julia@epa.gov]
Subject: Response to October 28 2019 Inquiry

Mr. Ludder,

Thank you for your email of October 28, 2019 to ECRCO Director Dorka. We have reviewed your request and have determined that we cannot approve the requested waiver of the 180 day deadline to file a complaint, at this time.

As reflected by the structure of the ECRCO's Case Resolution Manual, the agency's decisions about whether to grant a waiver are made when a correspondence has been filed because it is part of the evaluation of whether to accept, reject or dismiss a correspondence as a discrimination complaint. https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf. Unfortunately, there currently is no existing policy or procedure for making a determination about a waiver request in the absence of a complaint having been filed along with evidence about the date and specifics about the internal grievance with a recipient or a due process hearing in which the same discriminatory conduct was raised.

To the extent that it may assist you to understand the agency's waiver process, I refer you to Section 2.4 (4) (b) of the ECRCO Case Resolution Manual, which describes the reasons that a request for waiver may be granted. For instance, Section 2.4(4)(b) provides as follows:

"The complainant filed, within the 180-day period, an internal grievance with the recipient of financial assistance, or a due process hearing, alleging the same discriminatory conduct that is the subject of the ECRCO complaint, and the complaint is filed no later than 60 calendar days after the internal grievance is concluded."

If you have any other questions, please don't hesitate to contact me.

Dale Rhines
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